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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

THE ESTATE OF CHI MODU, through  
trustee SOPHIA MODU,

**Plaintiff,**

V.

TWENTYFOURSEVEN, SRL, an Italian Company; 247 PACIFIC, INC., a U.S. Corporation; MATCHES FASHION LIMITED, a London Corporation, doing business as “MATCHESFASHION”; ASHWORTH AND PARKER LIMITED, a United Kingdom Limited Entity, individually, and doing business as “END CLOTHING”; FARFETCH UK LIMITED, a United Kingdom Limited Company, individually, and doing business as “FARFETCH.COM”; and DOES 1 through 10,

Defendants.

Case No.: 2:22-cv-05621

**PLAINTIFF'S FIRST AMENDED  
COMPLAINT FOR:**

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR CONTRIBUTORY COPYRIGHT INFRINGEMENT

## Jury Trial Demanded

1 Plaintiff, by and through its undersigned attorneys, hereby prays to this  
2 honorable Court for relief based on the following:

3 **JURISDICTION AND VENUE**

4 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., §§ 101  
5 *et seq.*

6 2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331 and  
7 1338 (a) and (b).

8 3. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c) and  
9 1400(a) in that this is the judicial district in which a substantial part of the acts and  
10 omissions giving rise to the claims occurred.

11 **PARTIES**

12 4. Plaintiff, The Estate of Chi Modu, is a lawful estate that appears in this  
13 action via its trustee, Sophia Modu (hereinafter, “The Estate”).

14 5. Plaintiff is informed and believes and thereon alleges that Defendant  
15 Matches Fashion Limited is a limited company organized and existing under the  
16 laws of the United Kingdom, doing business as “MatchesFashion” and doing  
17 business in and with this District.

18 6. Plaintiff is informed and believes and thereon alleges that Defendant  
19 Ashworth and Parker Limited is a United Kingdom Limited Company that owns and  
20 operates and does business as “End Clothing” and is doing business in and with this  
21 District.

22 7. Plaintiff is informed and believes and thereon alleges that Defendant  
23 Farfetch UK Limited is a United Kingdom Limited Company that owns and operates  
24 and does business as “Farfetch.com,” through various international websites, is  
25 doing business in and with this District.

26 8. Plaintiff is informed and believes and thereon alleges that Defendant  
27 TwentyFourSeven, SRL (“247”), is an Italian Company doing business doing  
28 business in and with this District.

1       9. Plaintiff is informed and believes and thereon alleges that Defendant 247  
2 Pacific, Inc. (“247 Pacific”), is a U.S. Corporation affiliated with 247 that is doing  
3 business in and with this District.

4       10. 247 and 247 Pacific will be collectively referred to as the “247  
5 Defendants” herein.

6       11. Plaintiff is informed and believes and thereon alleges that some of  
7 Defendants Does 1 through 3, inclusive, are manufacturers and/or vendors of  
8 garments to Defendant, which Doe Defendants have manufactured and/or supplied  
9 and are manufacturing and/or supplying garments bearing garments manufactured  
10 with Plaintiff’s copyrighted designs (as hereinafter defined) without Plaintiff’s  
11 knowledge or consent or have contributed to said infringement. The true names,  
12 whether corporate, individual or otherwise of Defendants Does 1-3, inclusive, are  
13 presently unknown to Plaintiff, which therefore sues said Defendants by such  
14 fictitious names and will seek leave to amend this complaint to show their true  
15 names and capacities when same have been ascertained.

16       12. Defendants Does 4 through 10, inclusive, are other parties not yet  
17 identified who have infringed Plaintiff’s copyrights, have contributed to the  
18 infringement of Plaintiff’s copyrights, or have engaged in one or more of the  
19 wrongful practices alleged herein. The true names, whether corporate, individual or  
20 otherwise, of Defendants 4 through 10, inclusive, are presently unknown to Plaintiff,  
21 which therefore sues said Defendants by such fictitious names, and will seek leave to  
22 amend this Complaint to show their true names and capacities when same have been  
23 ascertained.

24       13. Plaintiff is informed and believes and thereon alleges that at all times  
25 relevant hereto each of the Defendants was the agent, affiliate, officer, director,  
26 manager, principal, alter-ego, and/or employee of the remaining Defendants and was  
27 at all times acting within the scope of such agency, affiliation, alter-ego relationship

1 and/or employment; and actively participated in or subsequently ratified and  
2 adopted, or both, each and all of the acts or conduct alleged, with full knowledge of  
3 all the facts and circumstances, including, but not limited to, full knowledge of each  
4 and every violation of Plaintiff's rights and the damages to Plaintiff proximately  
5 caused thereby.

6 **CLAIMS RELATED TO SUBJECT PRODUCT**

7 14. Prior to the conduct complained of herein, the artist Chi Modu ("Modu")  
8 created an original photograph depicting hip-hop group the Wu-Tang Clan (the  
9 "Subject Photograph"). A true and correct copy of the Subject Photograph is  
10 attached hereto as **Exhibit A**.

11 15. Modu passed away and The Estate obtained ownership and the copyrights  
12 in and to the Subject Photograph, as well as all accrued claims. The Subject  
13 Photograph and its copyrights are owned in exclusively by The Estate.

14 16. Plaintiff owns a United States Copyright Registration covering the Subject  
15 Design.

16 17. Prior to the acts complained of herein, Modu published the Subject  
17 Photograph to the public.

18 18. On information and belief, the 247 Defendants obtained a copy of the  
19 Subject Photograph and exploited it to create a series of garments, including, without  
20 limitation, those garments depicted in **Exhibit B** hereto.

21 19. Plaintiff is informed and believes and thereon alleges that, without  
22 Plaintiff's authorization, the 247 Defendants created, sold, manufactured, caused to  
23 be manufactured, imported and/or distributed products incorporating the Subject  
24 Photograph ("Infringing Product").

25 20. Plaintiff is informed and believes and thereon alleges that the Defendants,  
26 and certain DOE Defendants marketed, distributed, and sold the Infringing Product  
27 to reailers and/or the public.

21. A comparison of the Subject Photograph in **Exhibit A** with the Infringing Product exemplars in **Exhibit B** makes clear that Defendants, and each of them, reproduced, marketed, distributed, and/or sold product bearing a near verbatim or identical copy of the Subject Photograph.

22. The exemplars in **Exhibit B** are non-inclusive and the claims made herein are as to all products marketed, distributed, and/or sold by Defendants, or any of them, that bear the Subject Photograph or an appreciable portion thereof.

23. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed copyright infringement with actual or constructive knowledge of Plaintiff's rights, and/or in blatant disregard for Plaintiff's rights, such that said acts of copyright infringement were, and continue to be, willful, intentional and malicious, subjecting Defendants, and each of them, to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000.00) per infringement and/or a preclusion from certain positions and defenses.

24. On information and belief Plaintiff alleges that the one or more of the Defendants previously had notice of the claims of infringement at issue and one or more of the Defendants continues to market, distribute, and sell the product at issue. For example, and non-inclusively, one such Defendant is offering for sale the infringing product at issue as follows:



## **FIRST CLAIM FOR RELIEF**

(For Copyright Infringement – Against All Defendants, and Each)

25. Plaintiff repeats, realleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

26. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Photograph including, without limitation, through (a) access to Plaintiff's website and/or social media platforms; (b) access to online copies of the Subject Photograph; and (d) access to .jpeg, .tiffs, or .PDFs of the Subject Photograph.

27. Plaintiff is informed and believes and thereon alleges that one or more of the Defendants manufactures garments and/or is a garment vendor.

28. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's copyrights by creating, making, and/or developing directly infringing and/or derivative works from the Subject Photograph and by producing, distributing and/or selling garments which infringe the Subject Photograph through a network of retail stores, catalogues, and through on-line websites.

29. Due to Defendants' acts of infringement, Plaintiff has suffered substantial damages to its business in an amount to be established at trial.

30. Due to Defendants' acts of infringement, Plaintiff has suffered general and special damages in an amount to be established at trial.

31. Due to Defendants' acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of the Subject Photograph. As such, Plaintiff is entitled to disgorgement of Defendant's profits directly and

1 indirectly attributable to Defendant's infringement of Plaintiff's rights in the Subject  
2 Photograph in an amount to be established at trial.

3 32. Plaintiff is informed and believes and thereon alleges that Defendants, and  
4 each of them, have committed acts of copyright infringement, as alleged above,  
5 which were willful, intentional and malicious, which further subjects Defendants,  
6 and each of them, to liability for statutory damages under Section 504(c)(2) of the  
7 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000.00)  
8 per infringement and/or precludes them from asserting certain defenses and  
9 positions. Within the time permitted by law, Plaintiff will make its election between  
10 actual damages and statutory damages.

11

12 **SECOND CLAIM FOR RELIEF**

13 (For Vicarious and/or Contributory Copyright Infringement - Against All  
14 Defendants)

15 33. Plaintiff repeats, realleges, and incorporates herein by reference as though  
16 fully set forth, the allegations contained in the preceding paragraphs of this  
17 Complaint.

18 34. Plaintiff is informed and believes and thereon alleges that Defendants  
19 knowingly induced, participated in, aided and abetted in and profited from the illegal  
20 reproduction and/or subsequent sales of garments featuring the Subject Photograph  
21 as alleged herein.

22 35. Plaintiff is informed and believes and thereon alleges that Defendants, and  
23 each of them, are vicariously liable for the infringement alleged herein because they  
24 had the right and ability to supervise the infringing conduct and because they had a  
25 direct financial interest in the infringing conduct.

26 36. By reason of the Defendants', and each of their, acts of contributory and  
27 vicarious infringement as alleged above, Plaintiff has suffered and will continue to

suffer substantial damages to its business in an amount to be established at trial, as well as additional general and special damages in an amount to be established at trial.

37. Due to Defendants', and each of their acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of the Subject Photograph. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants' infringement of Plaintiff's rights in the Subject Photograph, in an amount to be established at trial.

38. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed acts of copyright infringement, as alleged above, which were willful, intentional and malicious, which further subjects Defendants, and each of them, to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000.00) per infringement and/or precludes them from asserting certain defenses and positions. Within the time permitted by law, Plaintiff will make its election between actual damages and statutory damages.

## **PRAYER FOR RELIEF**

Wherefore, Plaintiff prays for judgment as follows:

## **Against All Defendants**

#### **With Respect to Each Claim for Relief**

- a. That Defendants, their agents and employees be enjoined from infringing Plaintiff's copyrights in any manner, specifically those for the Subject Design;
- b. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff, plus any other monetary advantage gained by the Defendants through their infringement, the exact sum to be proven at the time of

1 trial, or, if elected before final judgment, statutory damages as available  
2 under the Copyright Act, 17 U.S.C. §§ 101, *et seq.*;

3 c. That Plaintiff be awarded its attorneys' fees as available under the  
4 Copyright Act U.S.C. §§ 101, *et seq.*;

5 d. That Defendants, and each of them, account to Plaintiff for their profits  
6 and any damages sustained by Plaintiff arising from the foregoing acts  
7 of infringement;

8 e. That Plaintiff be awarded pre-judgment interest as allowed by law;

9 f. That Plaintiff be awarded the costs of this action; and

10 g. That Plaintiff be awarded such further legal and equitable relief as the  
11 Court deems proper.

12 Plaintiff hereby demands a jury trial on all issues so triable pursuant to  
13 Fed.R.Civ.P. 38 and the Seventh Amendment to the U.S. Constitution.

14 Respectfully submitted,

15  
16 Dated: February 6, 2023 By: /s/ Scott Alan Burroughs  
17 Scott Alan Burroughs, Esq.  
18 Frank R. Trechsel, Esq.  
19 DONIGER / BURROUGHS  
20 Attorneys for Plaintiff  
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